

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 1192 OF 2016

Chander s/o Shivram Rathod,
Age : 54 years, Occupation : Service,
R/o Talmud, Tq.Umarga,
District Osmanabad.

...PETITIONER

-VERSUS-

Divisional Controller,
Maharashtra State Road Transport
Corporation, S.T.Divisional Office,
Osmanabad, Tq. & Dist.Osmanabad.

...RESPONDENT

...
Advocate for Petitioner : Shri Shahane Pradeep L. a/w Shri Parag
Shahane.

Advocate for Respondent : Shri Bagul D.S. a/w Shri R.N.Jain.

...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 22nd July, 2016

Oral Judgment :

1 Rule. Rule made returnable forthwith and heard finally by the
consent of the parties.

2 The Petitioner is aggrieved by the Part-1 judgment of the
Labour Court dated 24.04.2013 by which the enquiry has been held to be

fair and proper and the findings of the Enquiry Officer are not held to be perverse.

3 The Petitioner is also aggrieved by the judgment of the Industrial Court dated 21.06.2014 by which his Revision (ULP) No.50/2013 has been dismissed.

4 I have considered the strenuous submissions of Shri Shahane, learned Advocate on behalf of the Petitioner and Shri Bagul, learned Advocate for the Respondent/ Corporation.

5 After considering their submissions, I find that this case puts forth peculiar facts. The Petitioner is a Bus Conductor who was said to be apprehended in a surprise check of the Bus at Naldurg on 15.10.2008. Two passengers were travelling from Tuljapur to Aland. One was issued with the ticket for Rs.77/- and another passenger was travelling ticketless. After conducting a domestic enquiry, the charge of misappropriation under Clause 12(b) of the Discipline and Appeal Rules of the Respondent/ Corporation was held to be not proved. By order dated 29.08.2009, the Petitioner was awarded the punishment of reduction of basic wages by two stages permanently.

6 The Petitioner preferred a department appeal on 03.04.2010 questioning the order dated 29.08.2009 after about seven months. By letter dated 27.09.2010, it was simply informed that the appeal was “Filed”. However, a show cause notice was issued in the light of the appeal on 27.09.2010 calling upon the Petitioner to submit his reply within 72 hours as to why he should not be dismissed from service by way of punishment. Rather than filing a reply, the Petitioner filed Complaint (ULP) No.50/2010 on 05.10.2010, before the Labour Court.

7 It is stated by Shri Shahane that the Labour Court, Latur protected the Petitioner by passing an order on 05.10.2010. By order dated 09.04.2012, the application Exhibit U/2 praying for interim relief was allowed. Thereafter, the Labour Court framed two issues as regards whether, the Complainant proves that the departmental enquiry is vitiated and whether, he proves that the findings of the Enquiry Officer are perverse. By the impugned Part-1 judgment dated 24.04.2013 of the Labour Court, the enquiry and the findings were sustained and by the impugned judgment of the Industrial Court dated 21.06.2014, his revision petition was dismissed.

8 The litigating sides have placed on record the copy of the order passed by the Labour Court on 09.04.2012 below Exhibit U/2 by

which interim relief was granted to the Petitioner. Though this matter is not subject of adjudication before this Court, I find it very strange that in the matters of disciplinary proceedings, when interim relief of final nature cannot be granted, the same is granted considering the fact that the Petitioner has challenged the proposed dismissal. The Labour Court answered the issue about grant of interim relief in the 'negative', however, allowed the application in the operative part and granted interim relief. I am not required to deal with this issue since the Respondent/ Corporation has not chosen to challenge this order for the last more than four years.

9 Insofar as the impugned order of the Labour Court dated 24.04.2013 upholding the enquiry and the findings of the Enquiry Officer is concerned, the Petitioner himself deposed before the Labour Court that he has no grievance about the departmental enquiry, the report of the Enquiry Officer and the punishment awarded by the Competent Authority by order dated 29.08.2009. It is quite evident that the Petitioner has taken this stand since he has been exonerated by the Enquiry Officer from the charge of misappropriation, as is the contention of the Petitioner. He is, therefore, benefited by the findings of the Enquiry Officer and therefore, he has stated in his deposition that he does not desire to challenge the enquiry and the findings as well as the punishment proposed by the Competent Authority.

10 In the above backdrop, I do not find that the Labour Court has committed any error in upholding the enquiry and the findings of the Enquiry Officer. For the above reasons, no fault can be found with the judgment of the Industrial Court by which the revision petition of the Petitioner has been rejected.

11 This Writ Petition being devoid of merit is, therefore, dismissed. Rule is discharged.

kps

(RAVINDRA V. GHUGE, J.)